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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,)	No. 13-70273 NC
)	
Plaintiff,)	<u>[PROPOSED]</u> ORDER AND
)	STIPULATION EXCLUDING TIME
v.)	FROM THE SPEEDY TRIAL ACT
)	CALCULATION (18 U.S.C. §
RICHARD JOSEPH MCCHINAK,)	3161(h)(8)(A)) AND WAIVING TIME
)	LIMITS UNDER RULE 5.1
Defendant.)	
)	

With the agreement of the parties, and with the consent of the defendant, the Court enters this order scheduling an arraignment or preliminary hearing date of October 16, 2013 at 9:30 a.m. before the duty Magistrate Judge and documenting the defendant's waiver of the preliminary hearing date under Federal Rule of Criminal Procedure 5.1 and the exclusion of time under the Speedy Trial Act, 18 U.S.C. § 3161(b), from September 17, 2013 to October 16, 2013.

The parties agree, and the Court finds and holds, as follows:

1. The defendant is currently out of custody.
2. The matter is currently set for arraignment before the duty Magistrate Judge on September 18, 2013.

1 3. The defendant agrees to an exclusion of time under the Speedy Trial Act, 18 U.S.C.
2 § 3161(h)(8)(B)(iv) to provide reasonable time necessary for effective preparation, taking into
3 account the exercise of due diligence.

4 4. The defendant waives the time limits of Federal Rule of Criminal Procedure 5.1 for
5 preliminary hearing.

6 5. Counsel for the defense believes that postponing the preliminary hearing is in his
7 client's best interest, and that it is not in his client's interest for the United States to indict the
8 case during the normal 21-day timeline established in Rule 5.1.

9 6. The Court finds that, taking into the account the public interest in the prompt
10 disposition of criminal cases, these grounds are good cause for extending the time limits for a
11 preliminary hearing under Federal Rule of Criminal Procedure 5.1. Given these circumstances,
12 the Court finds that the ends of justice served by excluding the period from September 17, 2013
13 to October 16, 2013, outweigh the best interest of the public and the defendant in a speedy trial.
14 18 U.S.C. § 3161(h)(8)(A).

15 7. Accordingly, and with the consent of the defendant, the Court (1) sets a preliminary
16 hearing date before the duty Magistrate Judge on October 16, 2013, at 9:30 a.m., and (2) orders
17 that the period from September 17, 2013 to October 16, 2013, be excluded from the time period
18 for preliminary hearings under Federal Rule of Criminal Procedure 5.1 and from Speedy Trial

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1 Act calculations under 18 U.S.C. § 3161(h)(8)(A) & (B)(iv).

2
3 IT IS SO STIPULATED:

4
5 DATED: September 17, 2013

/s/
LAURA ROBINSON
Attorney for Defendant

6
7
8 DATED: September 17, 2013

/s/
MATTHEW L. MCCARTHY
Assistant United States Attorney

9
10
11 IT IS SO ORDERED.

12 DATED: Sept 17, 2013


HON. ELIZABETH D. LAPORTE
United States Magistrate Judge